



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE
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Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
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Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
NAVADURGA LLC
FOR
FAST TREK CITGO
Facility ID No. 5007002**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Navadurga LLC, for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" means the physical location where the UST and/or UST system is installed and/or operated, known as Fast Trek Citgo located at 2335 Azalea garden Road in Norfolk, Virginia. The Facility's UST and/or UST system are owned and operated by Navadurga LLC, and the Facility is further identified by UST Facility ID# 5007002.
6. "Navadurga" means Navadurga LLC, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Navadurga LLC is a "person" who owns and operates the Facility.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
8. "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
9. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
10. "Owner" means any person who owns an UST system used for storage, use, or dispensing of regulated substances as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
11. "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.
12. "Regulated Substance" means an element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health or welfare, or the environment, as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
13. "Regulations" means the Underground Storage Tanks: Technical Standards and Corrective Action Requirements, 9 VAC 25-580-10 *et seq.*
14. "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.
15. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 9 (Va. Code §§ 62.1-44.34:8 through 62.1-44.34:9) of the State Water Control Law addresses Storage Tanks.

16. “TRO” means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
17. “Underground Storage Tank” or “UST” means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
18. “Va. Code” means the Code of Virginia (1950), as amended.
19. “VAC” means the Virginia Administrative Code.
20. “Warning Letter” or “WL” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Navadurga is the owner and operator of the Facility. Navadurga stores regulated substances in the form of gasoline and diesel fuel in USTs at the Facility.
2. On November 29, 2016, Department staff inspected the Facility to evaluate Navadurga’s compliance with the requirements of the State Water Control Law and the Regulations. At that time, there were three (3) 10,000 gallon USTs (Tanks 1 & 3 contained gasoline, Tank 2 contained diesel fuel) at the Facility. DEQ staff observed the following:
 - a. Required leak detection documentation was not immediately available at the facility and were not readily available at an alternate location.
 - b. Class A and B Operator training documentation was not provided at the time of inspection, and the documentation was not made available upon request.
 - c. The required UST notification/registration documentation was not provided.
3. 9 VAC 25-580-50.6 and 60.5 requires that release detection shall be provided in accordance with Part IV – 9 VAC 25-580-130 et. seq. of the Regulations.
4. 9 VAC 25-580-130 requires that owners and operators of UST systems must provide a method, or combination of methods of release detection that meets the requirements of 9 VAC 25-580-130, including being able to detect a release from any portion of the tank and connected underground piping that routinely contains product; that is installed, calibrated, operated and maintained in accordance with the manufacturer’s instructions;

and that meets the performance requirements in 9 VAC 25-580-160 or 9 VAC 25-580-170.

5. 9 VAC 25-580-140 requires owners and operators of UST systems must provide release detection for tanks and piping in accordance with the requirements of that section.
6. 9 VAC 25-580-180 requires that UST system owners and operators must maintain records in accordance with 9 VAC 25-580-120, including results of any sampling, testing, or monitoring, for at least one year, either at the facility and immediately available for inspection or at a readily available alternative site and available for inspection upon request.
7. 9 VAC 25-580-125(c)(1) states that Class A operators shall successfully complete a training course approved by the board that includes a general knowledge of the UST systems.
8. 9 VAC 25-580-125(c)(2) states that Class B operators shall successfully complete a training course approved by the board that includes an in-depth understanding of operation and maintenance aspects of UST systems and related regulatory requirements.
9. 9 VAC 25-580-125(f) states that owners and operators of underground storage tank facilities shall prepare and maintain a list of designated Class A, Class B, and Class C operators.
10. 9 VAC 25-580-120(2)(h) states that owners and operators must maintain documentation of operator training required by 9 VAC 25-580-125, including verification of training for current Class A, Class B, and Class C operators, and a current list of operators and written instructions or procedures for Class C operators in accordance with 9 VAC 25-580-125.
11. 9 VAC 25-580-70(A) states that any owner who brings an underground storage tank system into use after May 8, 1986, must within 30 days of bringing such tank into use, submit a UST notification form/registration.
12. 9 VAC 25-580-120(1)(a) states that owners and operators must submit Notification for all UST systems, which includes certification for new UST systems.
13. 9 VAC 25-580-70(a) states that any change in ownership, tank status, tank/piping systems, or substance stored requires the UST owner to submit an amended UST notification Form within 30 days.
14. On November 29, 2016, DEQ issued Navadurga a Request for Compliance Action ("RCA"), with a response deadline of February 28, 2017, for the deficiencies noted in paragraphs C(2) through C(13), above.

15. On May 9, 2017, due to failure to comply with the RCA, DEQ issued Navadurga Warning Letter (“WL”) TTRO182576, which identified the deficiencies noted in paragraphs C(2) through C(13), above. Navadurga was required to provide documentation of correction of these deficiencies by June 7, 2017.
16. On July 18, 2017, due to failure to provide all the documentation requested in the RCA and WL, the Department issued Notice of Violation (“NOV”) No. TTRO188677 to Navadurga for violations listed in paragraphs C(2) through C(13), above. Navadurga failed to respond to the NOV.
17. On October 29, 2019, Department staff inspected the Facility to evaluate the Navadurga’s compliance with the requirements of the State Water Control Law and the Regulations. DEQ staff observed the following:
 - a. Required leak detection documentation was not immediately available at the facility and were not readily available at an alternate location.
 - b. Automatic line leak detector test records were not immediately available for inspection or at a readily available site.
 - c. Line Tightness test records were not provided and were not available at an alternative location.
 - d. DEQ staff were unable to verify by physical means or by records, the proper installation of spill and overfill prevention equipment.
 - e. Piping associated with USTs was not protected from corrosion by a required cathodic protection system.
 - f. Class A Operator training documentation was not provided at the time of inspection, and the documentation was not made available upon request.
 - g. Class B Operator training documentation was not provided at the time of inspection, and the documentation was not made available upon request.
 - h. A current list of designated Class A, Class B, and Class C operators was not provided at the time of the inspection and the list was not made available upon request.
 - i. Class C Operator training documentation was not provided at the time of inspection, and the documentation was not made available upon request.
 - j. Emergency Response and notification procedures were not provided during the inspection, and documents were not made available upon DEQ’s request.

18. 9 VAC 25-580-50.6 and 60.5 requires that release detection shall be provided in accordance with Part IV – 9 VAC 25-580-130 et. seq. of the Regulations.
19. 9 VAC 25-580-130 requires that owners and operators of UST systems must provide a method, or combination of methods of release detection that meets the requirements of 9 VAC 25-580-130, including being able to detect a release from any portion of the tank and connected underground piping that routinely contains product; that is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions; and that meets the performance requirements in 9 VAC 25-580-160 or 9 VAC 25-580-170.
20. 9 VAC 25-580-140 requires owners and operators of petroleum UST systems must provide release detection for tanks and piping in accordance with the requirements of that section.
21. 9 VAC 25-580-180 requires that UST system owners and operators must maintain records in accordance with 9 VAC 25-580-120, including results of any sampling, testing, or monitoring, for at least one year, either at the facility and immediately available for inspection or at a readily available alternative site and available for inspection upon request.
22. 9 VAC 25-580-170.1 states that an annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements.
23. 9 VAC 25-580-140(C)(2)(a) states that underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector conducted in accordance with subdivision 1 of 9 VAC 25-580-170; and have an annual line tightness test conducted in accordance with subdivision 2 of 9 VAC 25-580-170 or have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC 25-580-170.
24. 9 VAC 25-580-180.2 states that all UST system owners and operators must maintain records in accordance with 9 VAC-25-580-120.3; these results must be maintained at the UST site and immediately available for inspection or at a readily available alternative site and be provided for inspection upon request.
25. 9 VAC 25-580-60.4 states that to prevent spilling and overfilling associated with product transfer to the UST system, regulated UST systems must comply with the spill and overfill prevention equipment requirements specified in subsection 3 of 9 VAC 25-580-50.
26. 9 VAC 25-580-50.3 states that owners and operators of UST systems must use overfill prevention equipment that will (a) automatically shut off the flow of product into the UST when the UST is no more than 95% full or (b) alert the transfer operator when the UST is no more than 90% full by restricting flow of product into the UST or triggering a high level alarm or (c) restrict flow of product 30 minutes prior to overfilling.

27. 9 VAC 25-580-90.2 states that all UST systems equipped with cathodic protection must be inspected for proper operation by a qualified cathodic protection tester within 6 months of installation and at least every 3 years thereafter in accordance with a code practice developed by a nationally recognized association.
28. 9 VAC 25-580-90.4 states that owners and operators using cathodic protection must maintain records of operation of the cathodic protection system in accordance with 9 VAC 25-580-120, in order to demonstrate compliance with the performance standards in this section. Owners and operators must also provide the results of testing from the last 2 cathodic protection inspections required in 9 VAC 25-580-90.2.
29. 9 VAC 25-580-120.3 states that results must be maintained at the UST site and immediately available for inspection or at a readily available alternative site and be provided for inspection upon request.
30. 9 VAC 25-580-125(c)(1) states that Class A operators shall successfully complete a training course approved by the board that includes a general knowledge of the UST systems.
31. 9 VAC 25-580-125(c)(2) states that Class B operators shall successfully complete a training course approved by the board that includes an in-depth understanding of operation and maintenance aspects of UST systems and related regulatory requirements.
32. 9 VAC 25-580-125(f) states that owners and operators of underground storage tank facilities shall prepare and maintain a list of designated Class A, Class B, and Class C operators.
33. 9 VAC 25-580-120(2)(h) states that owners and operators must maintain documentation of operator training required by 9 VAC 25-580-125, including verification of training for current Class A, Class B, and Class C operators, and a current list of operators and written instructions or procedures for Class C operators in accordance with 9 VAC 25-580-125.
34. 9 VAC 25-580-125(b) states that owners and operators of petroleum UST systems shall designate Class A, Class B, and Class C operators for each UST system of facility that has underground storage tanks.
35. 9 VAC 25-580-125(c)(3) states that at minimum, training provided by the tank owner or Class A or Class B operator shall enable the Class C operator to take action in response to emergencies caused by spills or releases and alarms from an underground storage tank.
36. 9 VAC 25-580-125(D)(3) states that Class C operators shall be trained before assuming duties of a Class C operator.

37. 9 VAC 25-580-125(B)(4)(b) states that after September 15, 2010, written instructions or procedures shall be maintained and visible at manned UST facilities for persons performing duties of the Class C operator to follow and provide notification necessary in the event of emergency conditions.
38. On March 6, 2020, DEQ issued Notice of Violation (“NOV”) No. TTRO188677 to Navadurga for violations listed in paragraphs C(17) through C(37), above. Navadurga failed to respond to the NOV.
39. Based on the results of the On January 31, 2018, and October 29, 2019, inspections, the Board concludes that Navadurga has violated 9 VAC 25-580-50.6 & 60.5; 9 VAC 25-580-130; 9 VAC 25-580-140; 9 VAC 25-580-180; 9 VAC 25-580-170.1; 9 VAC 25-580-140(C)(2)(a); 9 VAC 25-580-180.2; 9 VAC 25-580-60.4; 9 VAC 25-580-50.3; 9 VAC 25-580-90.2; 9 VAC 25-580-90.4; 9 VAC 25-580-120.3; 9 VAC 25-580-125(c)(1); 9 VAC 25-580-125(c)(2); 9 VAC 25-580-125(f); 9 VAC 25-580-120(2)(h); 9 VAC 25-580-125(b); 9 VAC 25-580-125(c)(3); 9 VAC 25-580-125(D)(3); 9 VAC 25-580-125(B)(4)(b), as described in paragraphs C(2) through C(13), and C(17) through C(37), above.
40. In order for Navadurga to return to compliance, DEQ staff and representatives of Navadurga have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Navadurga, and Navadurga agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$10,000 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
Within 30 days of execution of this Order	\$4,000 or balance
November 1, 2020	\$2,000 or balance
December 1, 2020	\$2,000 or balance
January 1, 2020	\$2,000

3. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Navadurga. Within 15 days of receipt of such letter, Navadurga shall pay the remaining

balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.

4. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

5. Navadurga shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Navadurga shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Navadurga for good cause shown by Navadurga, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in Warning Letter No. TTRO182576 dated May 9, 2017, and NOV Nos. TTRO188677 dated July 18, 2017, and TTRO268036 dated March 6, 2020. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Navadurga admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Navadurga consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order
5. Navadurga declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a

waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Navadurga to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Navadurga shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Navadurga shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Navadurga shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Navadurga. Nevertheless, Navadurga agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after Navadurga has completed all of the requirements of the Order;
- b. Navadurga petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Navadurga.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Navadurga from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable

12. Any plans, reports, schedules or specifications attached hereto or submitted by Navadurga and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Navadurga certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Navadurga to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Navadurga.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Navadurga voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 21 day of AUGUST, 2020.



Craig R. Nicol, Regional Director
Department of Environmental Quality

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Navadurga LLC. voluntarily agrees to the issuance of this Order.

Date: 6/23/2020 By: [Signature] OWNER
(Person) (Title)
Navadurga LLC



Commonwealth of Virginia
City/County of Virginia Beach

The foregoing document was signed and acknowledged before me this 23rd day of
June, 2020, by Tushar B. Patel who is
managing member of Navadurga LLC, on behalf of the corporation.

Anna G. Bowerman
Notary Public

211104
Registration No.

My commission expires: Aug. 31, 2021

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

By January 1, 2021, Navadurga shall submit to DEQ:

1. Documentation demonstrating that USTs 1, 2, and 3 are protected from corrosion by a required cathodic protection system in accordance with 9 VAC 25-580-90.2; 9 VAC 25-580-90.4; and, 9 VAC 25-580-120.3.
2. Provide Automatic line leak detector test, Line Tightness test, and release detection records to DEQ in accordance with 9 VAC 25-580-50.6 and 60.5; 9 VAC 25-580-130; 9 VAC 25-580-140; 9 VAC 25-580-180; 9 VAC 25-580-170.1; 9 VAC 25-580-140(2)(a); and, 9 VAC 25-580-180.2.
3. Verification of proper installation of spill and overfill prevention equipment in accordance with 9 VAC 25-580-60.4 and 9 VAC 25-580-50.3.
4. Class A, B, and C Operator training documentation, and a list of designated Class A, B, and C operators in accordance with 9 VAC 25-580-125(1)(C)(1); 9 VAC 25-580-125(1)(C)(2); 9 VAC 25-580-125(B & F); and 9 VAC 25-580-120(2)(h).
5. Emergency response and notification procedures to DEQ in accordance with 9 VAC 25-580-125(B)(4)(b); 9 VAC 25-580-125(F); 9 VAC 25-580-120(2)(h).
6. Unless otherwise specified in this Order, Navadurga shall submit all requirements of Appendix A of this Order to:

Enforcement
DEQ – Tidewater Regional Office
5636 Southern Blvd.
Virginia Beach, VA 23462